

TIM D. DAILY, )  
 )  
 Plaintiff, )  
 )  
 v. ) Case No. 4:05-CV-1085 MLM  
 )  
 JEREMIAH NIXON, )  
 )  
 Defendant. )

This matter is before the Court upon plaintiff Tim D. Daily's request for leave to commence this action without payment of the required filing fee. See 28 U.S.C. § 1915(a).

In accordance with the foregoing,

**IT IS HEREBY ORDERED** that the Clerk of Court shall provide plaintiff with the court forms entitled “Motion to Proceed without Prepayment of Costs” and “Financial Affidavit - CJA23.”

**IT IS FURTHER ORDERED** that plaintiff shall have twenty (20) days from the date of this Order to pay the statutory filing fee of \$250.00, or to submit a fully completed and signed “Motion to Proceed without Prepayment of Costs” and “Financial Affidavit - CJA 23.”

**IT IS FURTHER ORDERED** that if, within twenty (20) days from the date of this Order, plaintiff fails to pay the filing fee or to submit a fully completed and signed “Motion to Proceed without Prepayment of Costs” and “Financial Affidavit - CJA 23,” the case shall be dismissed, without prejudice.

**IT IS FURTHER ORDERED** that, if plaintiff timely submits a “Motion to Proceed without Prepayment of Costs” and “Financial Affidavit - CJA 23,” the Clerk shall cause this case to be resubmitted to the Court for review under 28 U.S.C. § 1915.<sup>1</sup>

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/s/Mary Ann L. Medler  
MARY ANN L. MEDLER  
UNITED STATES MAGISTRATE JUDGE

Dated this 15th day of July, 2005.

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<sup>1</sup>If plaintiff pays the filing fee, he will be responsible for serving the summons and complaint upon the defendant. See Fed. R. Civ. P. 4(d). Service must be made within 120 days of the filing of the complaint (in the instant case, within 120 days of the payment of the filing fee). See Fed. R. Civ. P. 4(m). Plaintiff is advised that he may seek guidance on serving the defendant from the Office of the Clerk.